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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte CHRISTINE CHENG,
BRENDA WON,
DHEERAJ MOHNIA,
HA NGUYEN,
REED MALTZMAN,
ISAAC STRACK, and
NOEL MORIN

Appeal 2009-012368
Application 09/905,046
Technology Center 3600

Decided: June 16, 2010

Before HUBERT C. LORIN, ANTON W. FETTING, and
JOSEPH A. FISCHETTI, *Administrative Patent Judges*.

LORIN, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

Christine Cheng, et al. (Appellants), seek our review under 35 U.S.C. § 134 (2002) of the final rejection of claims 1-40. We have jurisdiction under 35 U.S.C. § 6(b) (2002).

We AFFIRM.¹

BACKGROUND

Appellants' invention is directed to detecting fraudulent transactions within a network-based facility.

Claim 1 is illustrative:

1. A method to detect fraudulent activities at a network-based transaction facility, the method comprising:

causing a first identifier associated with a first user identity to be stored on a machine responsive to a first sales-related event with respect to the network-based transaction facility and initiated under the first user identity from the machine which is coupled to the network-based transaction facility via a network; and

detecting a potentially fraudulent activity by detecting a lack of correspondence between the first identifier stored on the machine and a second identifier associated with a second user identity responsive to a second sales-related event with respect to the network-based transaction facility and initiated under the second user identity from the machine.

The Examiner relies on the following prior art reference as evidence of unpatentability:

Smaha	US 5,557,742	Sep. 17, 1996
Trostle	US 5,919,257	Jul. 6, 1999

¹ Our decision will make reference to the Appellants' Appeal Brief ("Br.," filed Oct. 10, 2008) and the Examiner's Answer ("Ans.," mailed Mar. 25, 2009).

Alex G. Buchner et al., *Discovering Internet Marketing Intelligence through Online Analytical Web Usage Mining*, SIGMOD Record, at 54-61 (December 1998). (Buchner)

Michael Miller, *The Complete Idiot's Guide to Ebay Online Auctions*, at 23, 52, 133, 157-161, 218, and 222 (1999).

Appellants appeal the following rejections:

1. Claims 1-6, 31-36, and 40 under 35 U.S.C. § 102(b) as being anticipated by Trostle.
2. Claims 7, 8, and 37 under 35 U.S.C. § 103(a) as unpatentable over Trostle and Buchner.
3. Claims 9-19 and 38 under 35 U.S.C. § 103(a) as unpatentable over Trostle, Buchner, and Miller.
4. Claims 20-30 and 39 under 35 U.S.C. § 103(a) as unpatentable over Trostle, Buchner, Miller, and Smaha.

APPELLANTS' ARGUMENTS

Regarding the § 102(b) rejection, the Appellants argued claims 1-6, 31-36, and 40 as a group (Br. 10-13). We select claim 1 as the representative claim for this group, and the remaining claims 2-6, 31-36, and 40 stand or fall with claim 1. 37 C.F.R. § 41.37(c)(1)(vii) (2007).

Appellants contest the Examiner's characterization (Ans. 3-4) that Trostle anticipates the claimed subject matter on the grounds that Trostle does not describe (a) “storing an identifier on a client machine” (Br. 12); (b) “a first user identity” and “a second user identity” (Br. 12); and (c) “detecting a lack of correspondence between ‘a first user identity’ and ‘a second user identity’” (Br. 12).

The Appellants address the § 103(a) rejections together, relying principally on the arguments raised in challenge to the § 102(b) rejection, arguing further that the combination of references do not “teach or suggest elements that Appellants argued above as lacking in Trostle.” Br. 14

ISSUE

In light of the Appellants’ arguments, has the Examiner established a prima facie case of anticipation?

FACTUAL FINDINGS

We adopt all of the Examiner’s findings as our own. Ans. 3-4.

ANALYSIS

The Appellants’ argument that Trostle does not describe “storing an identifier on a client machine” as claimed is unconvincing.

It is undisputed that Trostle describes a user entering a username at a workstation which is transmitted to a server where it is compared to a list of authorized users. *See* step 84 in Fig. 5 and the associated disclosure in Trostle (col. 5, ll. 46-65) and the corresponding discussion in the Examiner’s Answer on page 4. Accordingly, Trostle describes a first user identifier transmitted from a workstation to a server where it remains while it is compared to a pre-stored second user identifier.

The Appellants’ argument is that the username entered by the user at the workstation is not stored at the workstation. This presupposes that the claimed method requires the first user identifier to be stored at the client computer. But there is no mention in claim 1 of a client machine. Claim 1 requires only that the first user identity be stored on a “machine which is

coupled to the network-based transaction facility via a network.” The Specification uses the phrase “transaction facility” to refer to a site; that is, a server-based system. *See* element 10 in Fig. 1 and [0049]. Accordingly, claim 1 reasonably broadly covers storing the first user identity on a machine coupled to a server-based system. Claim 1 does not limit the “machine” to a client computer. Any “machine” coupled to a server-based system satisfies the claim limitation “machine which is coupled to the network-based transaction facility via a network,” as long as it stores a first user identifier. In that regard, the Examiner (without challenge) appears to have identified Trostle’s server the “machine” which stores the inputted user name (*i.e.*, the first user identifier) as claimed. *See* Ans. 16 discussing the username comparing process, which is performed in Trostle’s server. Trostle’s server is connected via a network to any number of server-based systems. *See e.g.*, col. 3, ll. 53-63. Accordingly, Trostle’s server is a “machine” coupled to a server-based system that satisfies the claim limitation “machine which is coupled to the network-based transaction facility via a network.” Since it is undisputed that Trostle’s server stores the inputted user name (*i.e.*, the first user identifier), at least so long as the comparing process takes place, Trostle describes the first step of the claimed process. The Appellants’ argument that Trostle does not describe “storing an identifier on a client machine” as claimed is therefore unconvincing in showing that the Examiner has failed to establish a *prima facie* case of anticipation.

The Appellants’ argument that Trostle does not describe “a first user identity” and “a second user identity” as claimed is also unconvincing. The Appellants do not explain why Trostle’s inputted user name is not a “a first

user identity” and the usernames in the server against which the inputted user name is compared is not “a second user identity”. The claim does not limit the first and second identities so as to be either different from each other or something other than a username.

The Appellants’ argument that Trostle does not describe “detecting a lack of correspondence between ‘a first user identity’ and ‘a second user identity’” is also unconvincing because, as discussed, if “a first user identity” and “a second user identity” correspond to Trostle’s inputted user name and the usernames in the server against which the inputted user name is compared, respectively, then in making the comparison antecedent to transmitting the key, Trostle’s server necessarily “detect[s] a lack of correspondence between ‘a first user identity’ and ‘a second user identity’”.

Given the unpersuasive nature of the Appellants’ arguments, we will sustain the rejection under § 102(b) of claim 1 and claims 2-6, 31-36, and 40 which stand or fall with claim 1.

Because the Appellants have relied on the arguments challenging the § 102(b) rejection to challenge the § 103(a) rejections, and because we have found them unpersuasive, we will sustain the § 103(a) rejections for the same reasons.

DECISION

We affirm the Examiner’s § 102(b) rejection(s) of claims 1-6, 31-36, and 40 as anticipated by Trostle.

We also affirm the Examiner’s § 103(a) rejections of claims 7, 8, and 37 as unpatentable over and Buchner; claims 9-19 and 38 as unpatentable over Trostle, Buchner, and Miller; and, claims 20-30 and 39 as unpatentable

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over Trostle, Buchner, Miller, and Smaha.

TIME PERIOD

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a). *See* 37 C.F.R. § 1.136(a)(1) (2009).

ORDER

AFFIRMED

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